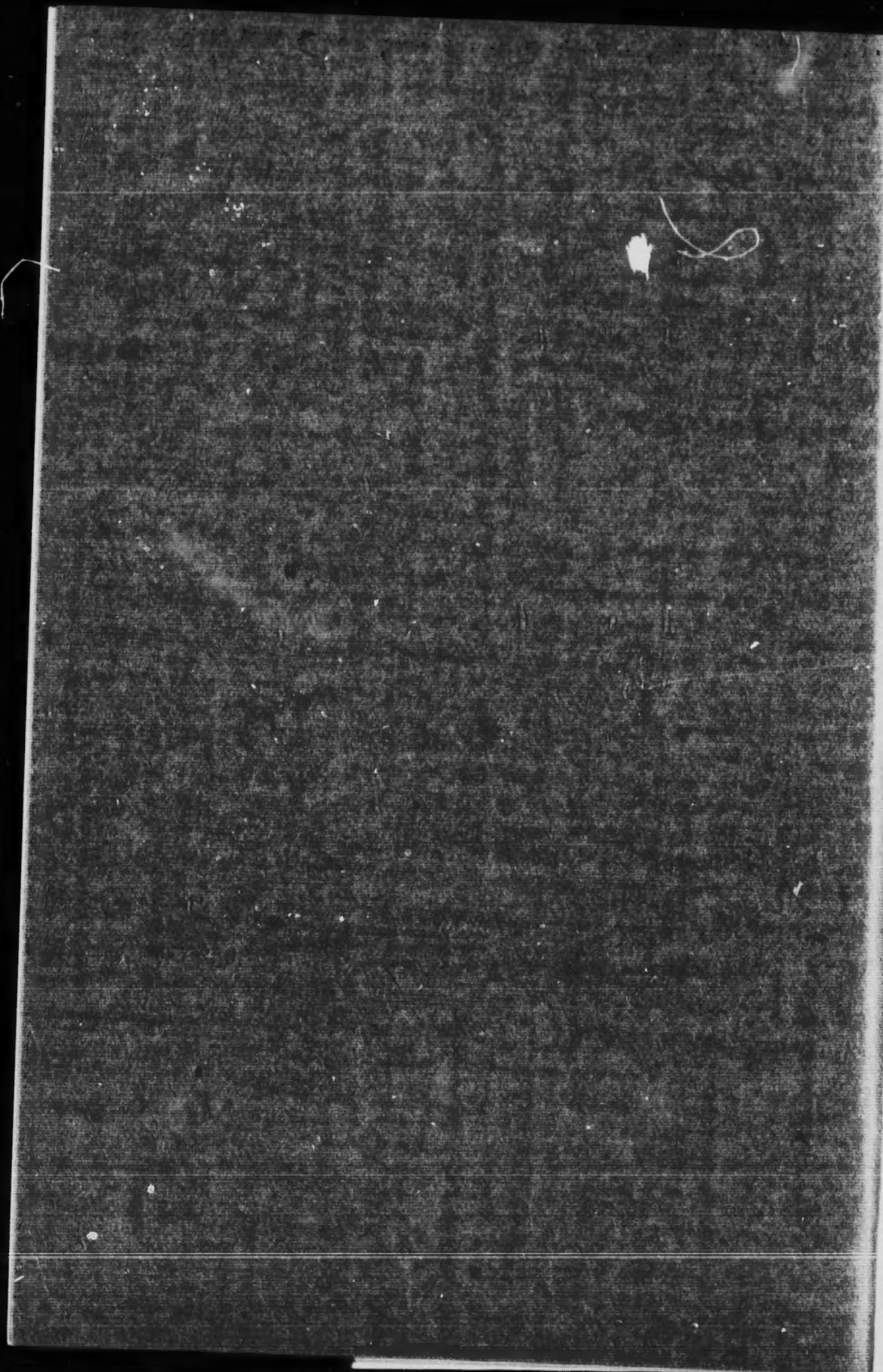




**The
Indeterminate Sentence
and
Parole System**

**By
Dr. J. T. Gilmour
Warden Central Prison
Toronto**

**Reprinted from
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HAMILTON CASSELLS, K.C., Pres.
CONFEDERATION LIFE BLDG.
TORONTO

Who will render to every man according to his deeds?
Rom. 2: 6.



IN sentencing men to prison the three chief considerations in the mind of the judge are the protection of society, punishment for the offence, and reformation of the delinquent.

There are two methods of attaining this end, the definite sentence and the indefinite sentence; the latter being commonly known as the Indeterminate Sentence and Parole System. Let us analyze the two methods and ascertain, as far as possible their usefulness in attaining our object. The definite sentence attempts to measure off so much penalty for so much crime, which means that it deals with the past, which is irrevocable, and not with the future, which contains a possibility, often a splendid possibility. The State should not be an avenger, but a repairer of bad moral conditions. A man should be imprisoned not so much for doing a wrong act, but because he is a wrongdoer. The definite sentence asks the question, How and when can we make him better? What judge can give a time limit to the latter question? When a judge is elevated to the bench is he simultaneously endowed with a superhuman wisdom, giving him a prophetic vision that enables him to read the future and tell how many years hence a criminal will be reformed

and fit to mingle with society? If so, all judges would impose the same sentence for similar offences. Do they? Most assuredly not. Then, which sentences are right and which are wrong? Who will answer? If the definite sentence deals out even-handed justice to all, why do we see so much jockeying among criminal lawyers to get a certain kind of cases before certain judges, and their great anxiety to avoid other judges? How is it that the criminal codes of no two countries agree on the extent of imprisonment meted out for similar crimes? Every prison register where the definite sentence prevails reveals the greatest inequalities in prison terms for precisely similar offences. How can it be different when the degree of moral indignation against the crime in the mind of the judge is the determining factor in the length of the sentence? Can all judges have the same degree of indignation, or can any one judge always hold the same opinion? Sentencing a man to prison is always a judicial act, but there the actual relations between the judge and the criminal end, and the judge sees no more of the man whom he has sentenced, and has no further personal knowledge of his conduct or progress. How then can the judge intelligently fix a date for the man to be released? Releasing a man from prison should be an act of administration, but not entirely in the hands of a prison warden. If a man's conduct sends him to

prison, should not a man's conduct release him from prison? If a man's conduct makes him a menace to society, demanding imprisonment, should not his conduct be tested by conditional liberation before he is granted complete freedom? The definite sentence liberates the criminal at a given time, be he ever so dangerous to society, and be his intentions ever so criminally inclined. It is not uncommon for a man leaving prison after completing a definite term to frankly avow his intention of "getting even with the world." If this class realized that their liberty was contingent on their industry and proper social habits how different would be their attitude toward society and the future.

That the State has an infinitely greater interest in the criminal's future than in his past requires no argument. When we study the heavy handicaps that the great majority of delinquents have been weighted with in early life, in the form of bad parentage, pernicious early environment, and lack of opportunity, we can then clearly realize that the State's self-evident duty is educative and reformatory rather than punitive. A Greek proverb says, "To know all is to forgive all." This is sometimes true and sometimes untrue. A considerable percentage of every prison population is the result of neglected childhood, children who,

humanly speaking, were damned into the world. Defenceless childhood is surrounded by fragile walls, which all open into vice or crime. The State has to do for this class, unfortunately in a prison, what the parents and the home failed to do. Treated by the definite sentence, the great majority become habitual criminals, a menace to society, and permanent wards of the State. The Indeterminate Sentence and Parole System is the only reasonable and humane method of developing this most promising and deserving class into valuable citizenship. The Indeterminate Sentence places the criminal's future to a very large extent in his own keeping. It stimulates and calls forth all that is best in the man and gives him an opportunity to redeem himself and fix the length of his prison term. The definite sentence holds out no such hope or opportunity, and renders the delinquent powerless to better his condition, be he ever so willing to do so. When the element of hope is taken out of the human life the best part of the man is annihilated. The Indeterminate Sentence gives a reasonable control over the morally weak while out of prison, and serves as a steadying and restraining influence while they are regaining an honest foothold in society. The Indeterminate Sentence spells education, hope, reformation and liberty, and places all within the grasp of the delinquent. None of these features mark the definite

sentence. The Indeterminate Sentence should never be used as an act of mercy or clemency, but should be based entirely on the criminal's conduct and merits and extended to him when he has earned it, and simply as his due. The Indeterminate Sentence and Parole System has not been discussed by the American Prison Association for years, for the simple reason that penologists are so thoroughly agreed that it is the basis and essence of every successful prison and reformatory system that to question its merits or doubt its efficiency, would be like criticizing the Lord's Prayer. In Canada we have the Ticket of Leave Act, with some of the most important features so imperfect that we derive but a part of the benefit that accrues from a proper system.

Therefore thou art inexcusable, O man, whosoever thou art that judgest.—Rom. 2: 1.

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